

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sara Griffin	Team: Squad #4	CCRB Case #: 201904673	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/25/2019 3:00 AM	Location of Incident: Hamilton Avenue and Richard Street	Precinct: 76	18 Mo. SOL 10/25/2020	EO SOL 6/11/2021	
Date/Time CV Reported Thu, 05/30/2019 2:57 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/30/2019 2:57 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Brower	07455	957404	076 PCT
2. POM Christophe Digioia	16969	946939	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christophe Brower	Abuse: Police Officer Christopher Brower stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Christophe Digioia	Abuse: Police Officer Christopher Digioia stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Christophe Brower	Abuse: Police Officer Christopher Brower frisked § 87(2)(b)	
D.POM Christophe Brower	Abuse: Police Officer Christopher Brower searched § 87(2)(b)	
E.POM Christophe Brower	Abuse: Police Officer Christopher Brower searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
F.POM Christophe Brower	Abuse: Police Officer Christopher Brower refused to provide his name to § 87(2)(b)	
G.POM Christophe Brower	Abuse: Police Officer Christopher Brower refused to provide his shield number to § 87(2)(b)	
H.POM Christophe Digioia	Abuse: Police Officer Christopher Digioia refused to provide his name to § 87(2)(b)	
I.POM Christophe Digioia	Abuse: Police Officer Christopher Digioia refused to provide his shield number to § 87(2)(b)	

Case Summary

On May 30, 2019, § 87(2)(b) called the CCRB and filed the following complaint on behalf of himself and his acquaintance, § 87(2)(b)

On April 25, 2019, at approximately 3:00 a.m., Police Officer Christopher Brower and Police Officer Christopher Digioia, of the 76th Precinct, stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants in the vicinity of Hamilton Avenue and Richard Street in Brooklyn (Allegations A and B: Abuse of Authority, § 87(2)(g) PO Brower allegedly frisked § 87(2)(b) (Allegation C: Abuse of Authority, § 87(2)(g) PO Brower searched § 87(2)(b) (Allegation D: Abuse of Authority, § 87(2)(g) PO Brower searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants (Allegations E: Abuse of Authority, § 87(2)(g) PO Brower and PO Digioia failed to provide their names and shield numbers to § 87(2)(b) (Allegations F to I: Abuse of Authority: § 87(2)(g) § 87(2)(b) was issued a summons for a plate cover.

There is Body Worn Camera footage capturing the incident.

Findings and Recommendations

Allegation A- Abuse of Authority: Police Officer Christopher Brower stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B- Abuse of Authority: Police Officer Christopher Digioia stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) and § 87(2)(b) testified (Board Review 1 and 2) that § 87(2)(b) 2018 white Range Rover had a black plastic frame advertising the dealership around the license plate.

PO Brower and PO Digioia testified (Board Review 3 and 4) that § 87(2)(b) vehicle was stopped for the plastic frame around the license plate.

A subclip of PO Brower's BWC (2/2) (Board Review 5) captures the plate cover on § 87(2)(b) vehicle.

§ 87(2)(b) was issued a summons by PO Brower for the plate cover (Board Review 6).

Vehicle and Traffic Law 402 (b) (Board Review 7) states that number plates shall be kept clean and in a condition as to be easily readable and shall not be covered by glass or any plastic material.

§ 87(2)(b), § 87(2)(g)

Allegation C: Abuse of Authority: Police Officer Christopher Brower frisked § 87(2)(b)
Allegation D: Abuse of Authority: Police Officer Christopher Brower searched § 87(2)(b)
Allegation E: Abuse of Authority: Police Officer Christopher Brower searched the vehicle
in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) testified (Board Review 1) that after providing his license and registration, PO Brower inquired if § 87(2)(b) would provide consent for his vehicle to be searched. § 87(2)(b) verbally refused. PO Brower instructed § 87(2)(b) and § 87(2)(b) to exit the vehicle, as he smelled marijuana. § 87(2)(b) complied and exited the vehicle. PO Brower frisked and searched § 87(2)(b). § 87(2)(b) could not recall if he was frisked prior to PO Brower placing his hands in his pockets and removing items from inside. § 87(2)(b) did not remember what he wore, but he normally keeps his wallet in his left back pants pocket, his keys in his front right pants pocket, and his iPhone in his front left pants pocket. § 87(2)(b) was instructed to stand at the rear of his vehicle with § 87(2)(b). PO Brower searched the front and back seats of his vehicle, and opened the glove compartment. § 87(2)(b) acknowledged having two checks rested on the backseat, which were issued to two clients of his tax business. § 87(2)(b) denied he and § 87(2)(b) had smoked any marijuana inside of his vehicle or prior to entering into his vehicle. § 87(2)(b) denied there was marijuana or any narcotics inside of his vehicle.

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b) PO Brower did not ask for consent to search § 87(2)(b) vehicle prior to instructing her and § 87(2)(b) to exit. After being instructed to exit, § 87(2)(b) left her purse on the floor of the passenger side. § 87(2)(b) was not in a position to see if § 87(2)(b) was frisked or searched by PO Brower. PO Brower proceeded to search § 87(2)(b) vehicle, while § 87(2)(b) and § 87(2)(b) stood at the rear with PO Digioia. After several minutes, PO Brower walked to the back of the vehicle with a knife § 87(2)(b) kept in her purse and two paper checks. PO Brower told § 87(2)(b) that she was not allowed to have her knife, before returning it back into her purse.

A subclip of PO Brower's BWC (1/2) (Board Review 8) captures the interaction between PO Brower and § 87(2)(b) leading up to § 87(2)(b) and § 87(2)(b) being instructed to exit their vehicle. The front passenger window appears to be closed. At 0:10, PO Brower tells § 87(2)(b) that he was stopped for having a plate cover. At 0:35, after providing his license and registration, PO Brower tells § 87(2)(b) that after running his information, if it comes back clear that PO Brower will "cut him a break." At 1:43, while back inside of the police vehicle, PO Brower tells PO Digioia that the female occupant looks familiar. PO Digioia tells PO Brower that he saw two checks on the backseat of the vehicle. At 2:55, PO Digioia tells PO Brower that after running an audit on the name on one of the two checks, it is discovered the individual had a prior arrest for prostitution. At 3:40, PO Brower tells PO Digioia that they are going to "pull out" the occupants. At 3:56, PO Brower inquires if § 87(2)(b) has anything inside his vehicle he is not supposed to have, to which § 87(2)(b) replies he does not. PO Brower requests for consent to search § 87(2)(b) vehicle, to which § 87(2)(b) refuses. At 4:15, PO Brower asks § 87(2)(b) if he has smoked marijuana inside of the vehicle, which § 87(2)(b) denies. PO Brower tells § 87(2)(b) he smells marijuana and instructs the occupants to exit the vehicle.

A subclip of PO Brower's BWC (1/2) (Board Review 9) captures PO Brower instructing § 87(2)(b) to exit. PO Brower is observed moving up and down § 87(2)(b) body, but it is unclear if he is frisking him or entering into any of § 87(2)(b) pockets.

PO Brower's BWC (1/2) (Board Review 9) between approximately 5:50 and 9:40 captures PO Brower's search of the vehicle, including § 87(2)(b)'s purse.

PO Brower testified (Board Review 3) that upon immediate approach he smelled the odor of burnt marijuana emanating from the vehicle. PO Brower did not comment on the odor of marijuana, as he likes to obtain the driver's information first and check it inside of his vehicle, to see what kind of person he is dealing with. PO Brower believed he might have signaled to PO Digioia while getting the driver's documentation that he smelled marijuana by waving his hand in front of his face, which is their "Ps & Qs" for the smell of marijuana. PO Brower was not sure if PO Digioia signaled back or acknowledged PO Brower's signal for marijuana. PO Digioia had noticed two checks on the backseat of the vehicle, and while PO Brower was running § 87(2)(b) information, PO Digioia ran a check on one of the names on the checks, which revealed a prior arrest for prostitution. PO Brower did not remember if he spoke to PO Digioia about the odor of marijuana, and believed he might have told PO Digioia that they were going to remove the occupants from the vehicle. PO Brower further stated that PO Digioia might not have known why PO Brower was removing the occupants from the vehicle, but that PO Digioia would have known PO Brower had a reason to be doing so. After approaching the vehicle, a second time, PO Brower asked for consent to search, which § 87(2)(b) refused. PO Brower informed § 87(2)(b) of the odor of marijuana. PO Brower confirmed that he first verbalized the odor of marijuana after § 87(2)(b) had refused consent to search his vehicle.

Upon exiting his vehicle, PO Brower smelled the odor of marijuana emanating from § 87(2)(b) clothes. PO Brower later testified that it is difficult to detect where the odor of marijuana is coming from. § 87(2)(b) had two, two to three-inch circular/ball shaped bulges in his front pants pockets, which PO Brower suspected to be bags of marijuana, even though nothing was protruding from the pockets. PO Brower denied frisking § 87(2)(b) but did search him after he exited the vehicle. PO Brower did not remember specifically what pockets he entered on § 87(2)(b). The two pocket bulges were wads of money. PO Brower denied believing § 87(2)(b) was armed, and confirmed he only searched § 87(2)(b) due to the odor of marijuana.

§ 87(2)(b) and § 87(2)(b) were brought to the rear of the vehicle, where they stood with PO Digioia. PO Brower searched § 87(2)(b) vehicle's "main compartment" and "everywhere a person could hide marijuana." PO Brower confirmed he only searched the vehicle due to the odor of marijuana. PO Brower searched inside § 87(2)(b)'s purse, which had been left on the passenger seat. PO Brower specifically searched through the purse, since it could be used to conceal marijuana. PO Brower did find a three to four-inch-long knife in the purse, which could have violated an administrative code, but warned and admonished § 87(2)(b). No marijuana was recovered during the search.

PO Digioia's testified (Board Review 4) that he did not smell marijuana upon initial approach while standing on the passenger side. PO Digioia did see two checks rested on the backseat of the vehicle, and was able to read one of the names off the check. After collecting § 87(2)(b)

documentation, and while walking back to the police vehicle, PO Brower signaled to PO Digioia that he smelled marijuana by pointing to his nose. PO Digioia ran a warrant audit on the name on the check, which revealed a prior arrest for prostitution. PO Brower and PO Digioia did not discuss what their next steps were, despite PO Brower signaling he smelled marijuana. PO Digioia stated that he and PO Brower not discussing the smell of marijuana is an “ongoing thing” and they tend not tell the defendants of the odor, and PO Brower’s gesture was enough for him. PO Brower and PO Digioia approached the vehicle for the second time, with PO Digioia again going to the passenger side. PO Digioia could not hear what PO Brower was saying on the driver’s side. PO Digioia was not in a position to see if PO Brower frisked or searched § 87(2)(b).

PO Digioia smelled the faint odor of marijuana when the passenger door was opened, but then when asked if he smelled marijuana emanating off any of the occupants, PO Digioia stated that it was a busy highway and did not recall. PO Digioia stood at the rear of the vehicle with the two occupants while PO Brower searched the vehicle. PO Digioia did not see any bulges on either occupant. PO Digioia did not see where PO Brower was searching inside of the vehicle.

The scent of marijuana emanating from a defendant’s vehicle provides officers with probable cause to search the vehicle and its occupants. People v. Chestnut, 43 A.D.2d 260 (Board Review 10).

§ 87(2)(b), § 87(2)(g)

Allegation F- Abuse of Authority: Police Officer Christopher Brower refused to provide his name to § 87(2)(b)

Allegation G- Abuse of Authority: Police Officer Christopher Brower refused to provide his shield number to § 87(2)(b)

Allegation H- Abuse of Authority: Police Officer Christopher Digioia refused to provide his name to § 87(2)(b)

Allegation I- Abuse of Authority: Police Officer Christopher Digioia refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) testified (Board Review 1) that after PO Brower instructed him and § 87(2)(b) to exit his vehicle, he requested PO Brower’s name and badge number. PO Brower told § 87(2)(b) he would provide him with a business card at the end of the vehicle stop. PO Brower did not verbally provide his name and shield number to § 87(2)(b). After vehicle was searched, and § 87(2)(b) returned inside, PO Brower approached and issued § 87(2)(b) the summons. No business card was provided with the summons. In his Intake call (Board Review 11), between 17:30 and 18:10, § 87(2)(b) also alleged he was told he would be provided a business card and did not receive one. § 87(2)(b) provided all the identifying information regarding the subject officers to the Intake investigator, which only included PO Brower’s tax identification number and the summons number.

§ 87(2)(b) testified (Board Review 2) that while she and § 87(2)(b) were standing at the rear of his vehicle, § 87(2)(b) requested the name and badge numbers of PO Brower and PO Digioia, which they both verbally provided. When PO Brower issued § 87(2)(b) the summons, he provided § 87(2)(b) documentation with it, and § 87(2)(b) did not testify to a business card being provided to § 87(2)(b).

A subclip of PO Brower's BWC (1/2) (Board Review 12) captures § 87(2)(b) request. With PO Brower and PO Digioia standing at the rear of the vehicle with him, § 87(2)(b) states that he wants names and badge numbers. PO Brower responds that he will provide him with a business card at the end of the interaction. PO Digioia is not heard providing his name and shield number to § 87(2)(b). After reviewing all BWC, at no point prior to standing at the rear of the vehicle does § 87(2)(b) request the name and shield number of the officers.

In the subclip of PO Brower issuing the summons to § 87(2)(b) (Board Review 5), PO Brower is heard telling § 87(2)(b) that all of his information is on the summons. PO Brower does not mention a business card during this time. The summons and documentation PO Brower provided to § 87(2)(b) is not clearly captured on the video.

The name of the issuing officer on the summons issued to § 87(2)(b) (Board Review 6) is illegible. PO Brower's tax identification number is listed, but his shield number is not.

PO Brower testified (Board Review 3) that he told § 87(2)(b) he would provide him with his business card after being requested to provide his name and shield number. PO Brower did not hear PO Digioia provide his name and shield number to § 87(2)(b). PO Brower provided a business card to § 87(2)(b) when he issued him the summons and returned his documentation. The BWC footage was played, and PO Brower acknowledged hearing himself tell § 87(2)(b) that his information was on the summons and that his name was illegible on the summons, but stated that he did provide a business card to § 87(2)(b).

PO Digioia testified (Board Review 4) and initially did not recall hearing § 87(2)(b) request his and PO Brower's name and shield number and did not recall hearing PO Brower tell § 87(2)(b) that he would provide him with a business card in lieu of providing his information. However, PO Digioia did see PO Brower provide § 87(2)(b) with a business card after his vehicle was searched and prior to § 87(2)(b) returning inside of his vehicle. The BWC footage was played, which did not refresh PO Digioia's recollection about § 87(2)(b) requesting his name and shield number. PO Digioia stated that he did not provide his information, since PO Brower told § 87(2)(b) that he would provide a business card, and it was his understanding that if just one officer provided his business card, then the request was satisfied. PO Digioia denied intentionally refusing to provide his name and shield number to § 87(2)(b).

Patrol Guide Procedure 203-09 (Board Review 12) states that officers must courteously and clearly states their rank, name, shield number, and command, or otherwise provide them, to anyone who requests you to do so.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 14).
- PO Brower has been a member-of-service for four years and this is the first CCRB complaint to which he has been a subject (Board Review 15).
- PO Digioia has been a member of service for 11 years and has been a subject in one CCRB complaints and one allegation, which was not substantiated. § 87(2)(g)
[Redacted]
[Redacted]

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 25, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 19).
- According to the Office of Court Administration (OCA), between March 16, 1995 and September 26, 2019, § 87(2)(b) was convicted two times of disorderly conduct, driving while ability impaired, driving without a license, and criminal possession of marijuana, and § 87(2)(b) was § 87(2)(b). OCA does not list any other convictions (Board Review 17).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 18).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date